

**S.R. 468** - By Sims: Extending congratulations to Max A. Stuart of Midland for achieving the rank of Eagle Scout.

**S.R. 469** - By Sims: Recognizing Dr. John Holcombe on his retirement and for the invaluable services he has rendered as a veterinarian.

**S.R. 481** - By Truan: Recognizing Dr. Ronald G. Munson of Mathis, who will be serving as Physician of the Day, April 11, 1991.

#### **ADJOURNMENT**

On motion of Senator Brooks, the Senate at 12:49 p.m. adjourned, in memory of former United States Senator John Tower, until 10:30 a.m. tomorrow.

#### **FORTY-SECOND DAY**

(Tuesday, April 9, 1991)

The Senate met at 10:30 a.m. pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Armbrister, Barrientos, Bivins, Brooks, Brown, Carriker, Dickson, Ellis, Glasgow, Green, Haley, Harris of Tarrant, Harris of Dallas, Henderson, Johnson, Krier, Leedom, Lucio, Lyon, Moncrief, Montford, Parker, Ratliff, Rosson, Sibley, Sims, Tejada, Truan, Turner, Whitmire, Zaffirini.

A quorum was announced present.

The Reverend Fred Cravens, St. Luke United Methodist Church, Austin, offered the invocation as follows:

God of our weary years, God of our silent tears; we come with praise and we come with thanksgiving for the mercy You have showered on us in life and in death. As we sit at this moment with our heads bowed toward the Mother Earth, we realize the tremendous responsibility of the task we have been given: to make the laws and regulations which will govern the lives of ourselves and of our brothers and sisters. We ask for grace to feel and be concerned for others. We ask to be instruments of Your justice which rolls on like a river, and of Your righteousness which is like an ever flowing stream.

God, You have shown us what is good. You have asked of us only this: that we might act justly, love loyally and walk wisely before our God. Amen.

(Senator Glasgow in Chair)

On motion of Senator Brooks and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

#### **CO-AUTHOR OF SENATE BILL 802**

On motion of Senator Dickson and by unanimous consent, Senator Sibley will be shown as Co-author of S.B. 802.

#### **MESSAGE FROM THE HOUSE**

House Chamber  
April 9, 1991

HONORABLE BOB BULLOCK  
PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

The House has appointed the following Conferees on **S.B. 351**: Glossbrenner, Chair; Delco, Luna, Fraser, Gibson.

**H.C.R. 36**, Designating April 20, 1991, as Because I Care—Bone Marrow Donor Awareness Day in Texas.

**H.C.R. 30**, In memory of Stevie Ray Vaughan.

**H.B. 1126**, Relating to fees for personal identification cards, a change in class of driver's license, and a duplicate commercial driver's license or permit.

**H.B. 355**, Relating to permitting a prosecuting attorney to obtain certain juvenile adjudication records.

Respectfully submitted,

BETTY MURRAY, Chief Clerk  
House of Representatives

#### REPORTS OF STANDING COMMITTEES

Senator Parker submitted the following report for the Committee on Education:

**S.B. 1147**  
**C.S.S.B. 1222**  
**C.S.S.B. 824**

Senator Dickson submitted the following report for the Committee on Economic Development:

**S.B. 610**  
**S.B. 617**  
**S.B. 690**  
**S.B. 710**  
**S.B. 1064**  
**S.B. 1303**  
**H.B. 175**  
**C.S.S.B. 1386**  
**C.S.S.B. 1290**  
**C.S.S.B. 691**  
**C.S.S.B. 709**  
**C.S.S.B. 305**  
**C.S.S.B. 1342**  
**C.S.S.B. 207**

Senator Montford submitted the following report for the Committee on Finance:

**S.B. 38**  
**C.S.S.J.R. 21**

Senator Glasgow submitted the following report for the Committee on State Affairs:

S.B. 178  
C.S.S.B. 884

Senator Sims submitted the following report for the Committee on Natural Resources:

C.S.S.B. 1094

#### HOUSE BILLS ON FIRST READING

The following bills received from the House were read the first time and referred to the Committee indicated:

H.B. 69, To Committee on Health and Human Services.  
H.B. 407, To Committee on Criminal Justice.  
H.B. 480, To Committee on Jurisprudence.  
H.B. 548, To Committee on Health and Human Services.  
H.B. 550, To Committee on State Affairs.  
H.B. 622, To Committee on Economic Development,  
Subcommittee on Insurance.  
H.B. 676, To Committee on Natural Resources.  
H.B. 712, To Committee on Economic Development,  
Subcommittee on Insurance.

#### BILLS AND RESOLUTIONS SIGNED

The Presiding Officer announced the signing in the presence of the Senate, after the captions had been read, the following enrolled bills and resolutions:

H.C.R. 18  
H.C.R. 37  
H.C.R. 46  
H.C.R. 47  
H.C.R. 147  
H.C.R. 165  
H.B. 155  
H.B. 820

#### MESSAGE FROM THE GOVERNOR

The following Message from the Governor was read and was referred to the Committee on Nominations:

Austin, Texas  
April 9, 1991

TO THE SENATE OF THE SEVENTY-SECOND LEGISLATURE,  
REGULAR SESSION:

I ask the advice, consent and confirmation of the Senate with respect to the following appointments:

TO BE A MEMBER OF THE TEXAS AGRICULTURAL FINANCE  
AUTHORITY BOARD OF DIRECTORS, for a term to expire January 1, 1993:

F. GARY VALDEZ  
7100 Waterline  
Austin, Texas 78731

Mr. Valdez will be replacing Steven C. Verett of Ralls, whose term expired.

TO BE JUDGE OF THE COURT OF CRIMINAL APPEALS, until the next General Election and until his successor shall be duly elected and qualified:

FORTUNATO P. BENAVIDES  
Route 1, Box 9603  
Robstown, Texas 78380

Justice Benavides will be replacing Judge Marvin O. Teague, who is deceased.

Respectfully submitted,

/s/Ann W. Richards  
Governor of Texas

#### **PERMISSION TO INTRODUCE BILLS**

Senator Brooks moved to suspend Article III, Section 5 of the Texas Constitution and Senate Rule 7.07(b) to permit the introduction of the following bills:

**S.B. 1488**  
**S.B. 1489**  
**S.B. 1490**  
**S.B. 1491**  
**S.B. 1493**

The motion prevailed by the following vote: Yeas 31, Nays 0.

#### **SENATE BILL 1160 REREFERRED**

On motion of Senator Brooks and by unanimous consent, **S.B. 1160** was withdrawn from the Committee on Education and rereferred to the Committee on Health and Human Services.

#### **CAPITOL PHYSICIAN**

Senator Brown was recognized and presented Dr. J. H. Bertheau, his wife, Anna, and his children, Hillary and Torrey, of Lake Jackson.

The Senate welcomed Dr. Bertheau and his family and expressed appreciation for his contributions today. Dr. Bertheau is a participant in the "Capitol Physician" program sponsored by the Texas Academy of Family Physicians.

#### **GUESTS PRESENTED**

Senator Sims was recognized and introduced students from Angelo State University and Howard College.

The Senate welcomed these students.

(President in Chair)

#### **SENATE RESOLUTION 484**

Senator Whitmire offered the following resolution:

**S.R. 484**, Proclaiming Tuesday, April 9, 1991, as "Texas County Government Day" at the Capitol.

The resolution was read and was adopted by a viva voce vote.

**GUESTS PRESENTED**

Upon recognition, Senator Whitmire introduced a delegation of county officials seated in the gallery.

The Senate welcomed these guests.

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 170 ADOPTED**

Senator Zaffirini called from the President's table the Conference Committee Report on S.B. 170. (The Conference Committee Report having been filed with the Senate and read on Monday, April 8, 1991.)

On motion of Senator Zaffirini, the Conference Committee Report was adopted by a viva voce vote.

**SESSION TO CONSIDER EXECUTIVE APPOINTMENTS**

The President announced the time had arrived to consider the Executive appointments to agencies, boards and commissions. Notice of submission of these names for consideration was given yesterday by Senator Barrientos.

Senator Barrientos moved confirmation of the nominees reported yesterday by the Committee on Nominations.

The President asked if there were requests to sever nominees.

There were no requests offered.

**NOMINEES CONFIRMED**

The following nominees as reported by the Committee on Nominations were confirmed by the following vote: Yeas 31, Nays 0.

Member, Board of Regents, East Texas State University: MS. DeMETRIS AQUILLA SAMPSON, Dallas County.

Member, Texas National Research Laboratory Commission: J. FRED BUCY, Dallas County.

Member, Board of Directors, Texas Agricultural Finance Authority: JUDGE LEODORO MARTINEZ, JR., La Salle County.

Member, Board of Directors, Upper Colorado River Authority: HARRY B. ELAM, Tom Green County.

Member, Board of Directors, Lower Neches Valley Authority (Appointed by Texas Water Development Board): JUDGE THOMAS A. THOMAS, Jefferson County.

**COMMITTEE SUBSTITUTE  
SENATE BILL 135 ON SECOND READING**

Senator Tejeda asked unanimous consent to suspend the regular order of business to take up for consideration at this time:

C.S.S.B. 135, Relating to the collection of ad valorem taxes and to the collection of delinquent ad valorem taxes; providing a penalty.

There was objection.

Senator Tejeda then moved to suspend the regular order of business and take up C.S.S.B. 135 for consideration at this time.

The motion prevailed by the following vote: Yeas 26, Nays 4, Present-not voting 1.

Yeas: Armbrister, Barrientos, Bivins, Brooks, Carriker, Ellis, Glasgow, Green, Haley, Harris of Tarrant, Krier, Leedom, Lucio, Lyon, Moncrief, Montford, Parker, Ratliff, Rosson, Sibley, Sims, Tejeda, Truan, Turner, Whitmire, Zaffirini.

Nays: Dickson, Harris of Dallas, Henderson, Johnson.

Present-not voting: Brown.

The bill was read second time.

Senator Parker offered the following amendment to the bill:

Amend SECTION 1 of C.S.S.B. 135 by adding the following new Subsections (c) through (j) and renumbering existing Subsection (c) and subsequent subsections accordingly:

(c) No taxing unit may impose the additional penalty authorized by subsection (a) or (b) of this section or Section 6 of this act unless the governing body of the unit, by official action, fixes the amount of the penalty before May 1 of each year. The governing body shall use the following formula to calculate the amount of the penalty:

$$\frac{\text{Actual cost}}{\text{Anticipated collections}} \times 100 = \text{percent penalty (rounded to nearest whole number)}$$

(d) A governing body that adopts the penalty authorized by subsection (a) or (b) of this section shall use the amount certified by its independent certified public accountant pursuant to subsection (g) as the actual cost and shall use the amount projected and announced by the unit's tax collector pursuant to Section 26.04(i)(2) as the anticipated collections, which shall be certified to the governing body as provided by Section 26.04.

(e) A taxing unit that adopts the penalty authorized by subsection (a) or (b) of this section shall provide for an annual audit of enforced collection of delinquent taxes by an independent certified public accountant, who shall determine:

(1) the amount actually spent on enforced collection of delinquent taxes for the preceding fiscal year;

(2) the amount of penalties authorized by subsection (a) or (b) of this section collected during the period; and

(3) the amount budgeted for enforced collection of delinquent taxes for the current fiscal year.

(f) In determining the amount actually spent on enforced collection of delinquent taxes as required by subsection (e) of this section, the accountant shall audit the records of the attorney responsible for enforced collection of delinquent taxes and shall consider only salaries of attorneys and support personnel directly involved in enforced collection of delinquent taxes and other operating costs directly attributable to the enforced collection of delinquent taxes. If any expenditure includes other activities, the accountant shall subtract, from the total expenditure, the amount attributable to other activities. The accountant shall inspect the unit's current fiscal year budget for the attorney responsible for enforced collection of delinquent taxes to determine the amount budgeted for enforced collection of delinquent taxes as required by subsection (e) of this section.

(g) If the accountant determines that the amount of penalties collected as authorized by subsection (a) or (b) of this section during the preceding fiscal year exceeds the amount actually spent on enforced collection of delinquent taxes during that period, he shall subtract the excess from the amount budgeted for the enforced collection of delinquent taxes for the current fiscal year. To the difference, the accountant shall add the cost of conducting the audit required by this section. The

sum is the actual costs incurred for enforced collection of delinquent taxes for purposes of subsection (c).

(h) The accountant shall report his findings to the governing body before it fixes the amount of the penalty authorized by subsection (a) or (b) of this section. The accountant shall include recommendations of the kind and form of records to be kept to enable him to make the determinations required by this section.

(i) The attorney responsible for collecting delinquent taxes and any other official with information about the matters on which the accountant shall make determinations shall keep full and accurate records as specified by the accountant.

(j) In this section, "enforced collection of delinquent taxes" means the collection, by legal process requiring an attorney, of taxes still delinquent on July 1 of the year the taxes become delinquent.

The amendment was read and was adopted by a viva voce vote.

#### RECORD OF VOTE

Senator Krier asked to be recorded as voting "Nay" on the adoption of the amendment.

#### RECORD OF VOTE

Senator Brown asked to be recorded as voting "Present-not voting" on the adoption of the amendment.

On motion of Senator Tejeda and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment by a viva voce vote.

#### RECORD OF VOTE

Senator Brown asked to be recorded as voting "Present-not voting" on the passage of the bill to engrossment.

#### COMMITTEE SUBSTITUTE SENATE BILL 135 ON THIRD READING

Senator Tejeda moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that C.S.S.B. 135 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1, Present-not voting 1.

Nays: Henderson.

Present-not voting: Brown.

The bill was read third time and was passed by a viva voce vote.

#### RECORD OF VOTES

Senators Henderson, Lucio, Harris of Tarrant, Harris of Dallas and Johnson asked to be recorded as voting "Nay" on the final passage of the bill.

#### RECORD OF VOTE

Senator Brown asked to be recorded as voting "Present-not voting" on the final passage of the bill.

**MESSAGE FROM THE HOUSE**

House Chamber  
April 9, 1991

HONORABLE BOB BULLOCK  
PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

The House has adopted the Conference Committee Report on S.B. 170 by a non-record vote.

H.C.R. 185, Honoring Dr. Vic Morgan for his outstanding achievements and success as President of Sul Ross State University.

Respectfully submitted,

BETTY MURRAY, Chief Clerk  
House of Representatives

**GUESTS PRESENTED**

Senator Henderson was recognized and introduced students from Westfield High School.

The Senate welcomed these guests.

**GUEST PRESENTED**

The President announced the presence of former Senator Roy Blake in the Senate Chamber.

The Senate welcomed Senator Blake.

**SENATE BILL 542 ON SECOND READING**

On motion of Senator Tejeda and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 542, Relating to statutory probate courts.

The bill was read second time.

Senator Tejeda offered the following committee amendment to the bill:

Amend S.B. 542 as follows:

(1) In Section 2 of the bill (page 1, line 16), strike "25.0026-25.0031", and substitute "25.0026-25.0032".

(2) Add the following new Section 25.0032 (page 3, between lines 14 and 15), to read as follows:

Sec. 25.0032. APPLICATION OF SUBCHAPTER. If a provision of this subchapter conflicts with a specific provision for a particular court or county, the specific provision controls.

The committee amendment was read and was adopted by a viva voce vote.

On motion of Senator Tejeda and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment by a viva voce vote.



**SENATE BILL 542 ON THIRD READING**

Senator Tejeda moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that S.B. 542 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**GUESTS PRESENTED**

Senator Barrientos was recognized and introduced Patsy Gutierrez, Assistant Principal, and Rickey Martinez of Ortega Elementary School of Austin.

The Senate welcomed these guests.

**COMMITTEE OF THE WHOLE SENATE**

On motion of Senator Brooks and by unanimous consent, the Senate at 11:31 a.m. resolved into a Committee of the Whole Senate with Senator Brooks presiding.

**IN LEGISLATIVE SESSION**

Senator Glasgow at 2:15 p.m. called the Senate to order as In Legislative Session.

**SENATE RULE 11.11 SUSPENDED**

On motion of Senator Glasgow and by unanimous consent, Senate Rule 11.11 was suspended in order that the Committee on State Affairs might consider S.B. 171 tomorrow.

**MEMORIAL RESOLUTIONS**

H.C.R. 30 - (Barrientos): In memory of Stevie Ray Vaughan.

S.C.R. 98 - By Moncrief: In memory of Jack Lawrence Butler of Fort Worth.

S.R. 487 - By Glasgow: In memory of James A. Grogan of Azle.

S.R. 489 - By Glasgow: In memory of Cecil Derwin Proctor of Hamilton.

S.R. 490 - By Glasgow: In memory of Stacey McInroe Conner.

S.R. 491 - By Glasgow: In memory of Malvin "Mel" Southern of Glen Rose.

S.R. 493 - By Glasgow: In memory of Rufus Clifton "Cliff" Cain of Dublin.

S.R. 494 - By Glasgow: In memory of Carl William Julius Stroebe of Cisco.

S.R. 495 - By Glasgow: In memory of Wayne M. "Red" Swindle of Comanche County.

**WELCOME AND CONGRATULATORY RESOLUTIONS**

S.R. 482 - By Harris of Tarrant: Joining with the Boy Scouts of America in recognizing Scoutmaster Robert "Bob" Carroll Nethers of Hurst as an outstanding citizen.

S.R. 483 - By Ratliff: Commending Denver Pyle for his benevolent work on behalf of the children of Texas and most especially participants in the Special Olympics.

S.R. 486 - By Barrientos: Paying tribute to the Black Arts Alliance on the occasion of its Third Annual Excellence in the Arts Awards Program in Austin.

**S.R. 488** - By Glasgow: Extending congratulations to the DeLeon Bearcats football team on their exceptionally fine season.

**S.R. 492** - By Glasgow: Extending congratulations to Donna Drury, Pam Keener, and Ginger Silloway for being named All-American Scholar Athletes by the National Association of Collegiate Gymnastic Coaches for Women.

**S.R. 496** - By Sibley: Extending congratulations to the Corsicana-Area Chamber of Commerce on its sponsorship of Corsicana Day in Austin and paying tribute to Corsicana and Navarro County.

**S.R. 497** - By Sibley: Welcoming The Right Honorable Sir Bernard Braine, who will be serving as Visiting Distinguished Professor at Baylor University.

**S.R. 498** - By Turner: Extending congratulations to Saint Paul's Episcopal Church on the grand occasion of the 125th anniversary of the parish organization and the 100th anniversary of the church building.

#### ADJOURNMENT

On motion of Senator Brooks, the Senate at 2:17 p.m. adjourned, in memory of Tom Hanstrom of Fort Worth, Executive Director of the Texas Osteopathic Medical Association, until 11:00 a.m. tomorrow.

#### APPENDIX

Sent to Governor  
(April 9, 1991)

<b>S.C.R. 82</b>	<b>S.B. 121</b>
<b>S.C.R. 84</b>	<b>S.B. 124</b>
<b>S.C.R. 86</b>	<b>S.B. 126</b>
<b>S.C.R. 87</b>	<b>S.B. 127</b>
<b>S.C.R. 88</b>	<b>S.B. 169</b>
<b>S.C.R. 89</b>	<b>S.B. 206</b>
<b>S.C.R. 92</b>	<b>S.B. 254</b>
<b>S.B. 34</b>	<b>S.B. 264</b>
<b>S.B. 59</b>	<b>S.B. 310</b>
<b>S.B. 107</b>	<b>S.B. 448</b>

**In Memory  
of  
Marcus Leroy Loftis**

Senator Barrientos offered the following resolution:

**(Senate Resolution 425)**

WHEREAS, The death of Marcus Leroy Loftis on March 15, 1991, was greatly mourned by his family and friends; and

WHEREAS, A native of Texas, Mr. Loftis was born in Morgan in Bosque County on March 28, 1918, and had lived in Corsicana from 1921 until 1937, where he graduated from high school; and

WHEREAS, Mr. Loftis was proud of his vocation as an electrical worker and had been a member of the International Brotherhood of Electrical Workers, American Federation of Labor-Congress of Industrial Organizations since 1938; and

WHEREAS, A veteran of World War II, Marcus served his country admirably as a member of the United States Army Signal Corps and the Army Air Corps; and

WHEREAS, He graduated from signal corps schools as a second lieutenant and was assigned duty as Inspector of Training in Camp Crowder, Missouri; and

WHEREAS, After attending air force schools, Marcus became a B-24 pilot and was assigned duty with the 15th Air Force in Italy where he flew 16 combat missions; and

WHEREAS, Retiring from the air force in 1946, Mr. Loftis became a journeyman wireman in 1947 and was elected business manager of the Local Union No. 520, International Brotherhood of Electrical Workers in Austin, a position he held until 1959 when he was appointed international representative of the union; and

WHEREAS, A dedicated and valuable member of his union, he became assistant to the International President in 1966, serving with distinction until his retirement in 1981; and

WHEREAS, Vitally interested in the betterment and progress of his fellow workers, he contributed his time and energies to the welfare of others; and

WHEREAS, Marcus Leroy Loftis was respected for his honesty and integrity throughout his long career; and

WHEREAS, Recognized as a highly capable and effective administrator, Mr. Loftis was elected secretary of the Austin Electrical Joint Apprenticeship and Training Committee, chairman of the Texas State Joint Apprenticeship and Training Committee, and president of the Texas State Association of Electrical Workers; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 72nd Legislature, hereby extend sincere condolences to the family of Marcus Leroy Loftis: his wife, Lorraine; and his sons, Jack and Glen; and, be it further

RESOLVED, That a copy of this Resolution be prepared for the members of his family as an expression of deepest sympathy from the Texas Senate, and that when the Senate adjourns this day, it do so in memory of Marcus Leroy Loftis.

The resolution, previously adopted by the Senate on Wednesday, March 27, 1991, was read.